

STATE OF ARIZONA
CITIZENS CLEAN ELECTIONS COMMISSION

MUR: No. 04-0065

STATEMENT OF REASONS OF EXTERNAL INVESTIGATIVE CONSULTANT

On behalf of the Citizens Clean Elections Commission (“Commission”), the External Investigative Consultant hereby provides the Statement of Reasons showing no reason to believe violations of the Citizens Clean Elections Act and Commission rules occurred.

I. Procedural Background

On March 14, 2005, Patrick Meyers (“Complainant”) filed a complaint against Kathi Foster (“Respondent”), a participating candidate for State Representative, District 12, alleging that Respondent failed to pay the vendor directly for goods and services. Exhibit A. On March 19, March 29, and June 20, 2005, Respondent responded to the complaint and provided supporting documentation for the campaign expenditures. Exhibit B. Respondent’s campaign finance report for the 2004 election cycle is attached as Exhibit C.

II. Alleged Violations

1. Respondent reported payment of \$190.71 to herself on August 11, 2004 for reimbursement of campaign expenditures. Complainant alleges that the reimbursement was over the \$110 limit and disguises where the money was spent. Respondent reimbursed herself and provided supporting documentation for these expenses. These expenditures, which include payments for postage, office supplies, and gas related to campaign travel, were used for campaign purposes and were reported accurately.

2. Respondent reported payment of \$9,300.00 on September 4, 2004 to Fifty Plus One for Consulting and a mailing piece. Complainant alleges that Fifty Plus One is not a printer, mail house or a postage vendor, and therefore Respondent failed to pay the vendor directly. Respondent provided detail from Fifty Plus One that itemizes the expenses to the subvendors. A to Z Printing provided the printing for \$1,790.95, Marilyn Moss Design provided the graphic design for \$750.00, USPS provided the postage for \$2,702.95 and Fifty Plus One provided consulting for \$4,056.10. Exhibit B. The amended campaign finance report specifies the expenditures to the subcontractors for the mailing. Exhibit C.

3. Respondent reported payment of \$169.99 to herself on September 7, 2004 for reimbursement of campaign expenditures. Complainant alleges that the reimbursement was over the \$110 limit and disguises where the money was spent. Respondent reimbursed herself and provided supporting documentation for these expenses. These expenditures, which include payments for office supplies, salon services for a campaign photo shoot, and gas related to campaign travel, were used for campaign purposes and were reported accurately.

AGENDA ITEM XIII (C)

4. Respondent reported payment of \$611.28 on September 29, 2004 to Freedom Marketing for campaign tee shirts. Complainant alleges they are merely brokers for tee shirts and numerous other promotional products. Respondent states that screen printing and sales of t-shirts is within the regular business and services provided by Freedom Marketing Corporation, and therefore no other vendor disclosure is required.

5. Respondent reported payment of \$2,686.00 on October 5, 2004 to Fifty Plus One for Consulting and a mailing piece. Complainant alleges that Fifty Plus One is not a printer, mail house or a postage vendor, and therefore Respondent failed to pay the vendor directly. Respondent provided detail from Fifty Plus One that itemizes the expenses to the subvendors. A to Z Printing provided the printing for \$780.38 and Fifty Plus One provided consulting for \$1,905.62. Exhibit B. The amended campaign finance report specifies the expenditures to the subcontractors for the mailing. Exhibit C.

6. Respondent reported payment of \$10,036.80 on October 5, 2004 to Fifty Plus One for Consulting and a mailing piece. Complainant alleges that Fifty Plus One is not a printer, mail house or a postage vendor, and therefore Respondent failed to pay the vendor directly. Claimant also questioned if Respondent is reporting expenditures as they incurred, as two payments were made on the same day to Fifty Plus One. The dates of these invoices were October 2, 2004 and October 5, 2004 respectively, which was reported as an expenditure within a timely manner. Respondent provided detail from Fifty Plus One that itemizes the expenses to the subvendors. A to Z Printing provided the printing for \$1,599.85, Marilyn Moss Design provided the graphic design for \$750.00, USPS provided the postage for \$2,702.95, Underwood Archives provided the photographs for \$600.00, and Fifty Plus One provided consulting for \$4,384.00. Exhibit B. The amended campaign finance report specifies the expenditures to the subcontractors for the mailing. Exhibit C.

7. Respondent reported payment of \$9,339.69 on October 18, 2004 to Fifty Plus One for Consulting and a mailing piece. Complainant alleges that Fifty Plus One is not a printer, mail house or a postage vendor, and therefore Respondent failed to pay the vendor directly. Respondent provided detail from Fifty Plus One that itemizes the expenses to the subvendors. A to Z Printing provided the printing for \$2,585.59, Marilyn Moss Design provided the graphic design for \$1,550.00, USPS provided the postage for \$2,610.00, and Fifty Plus One provided consulting for \$2,594.10. Exhibit B. The amended campaign finance report specifies the expenditures to the subcontractors for the mailing. Exhibit C.

8. Respondent reported payment of \$2,455.35 on October 27, 2004 to Fifty Plus One for door hangers. Complainant alleges that Fifty Plus One is not a printer, and therefore Respondent failed to pay the vendor directly. Respondent provided detail from Fifty Plus One that itemizes the expenses to the subvendors. A to Z Printing provided the printing for \$652.34, Marilyn Moss Design provided the graphic design for \$600.00, and Fifty Plus One provided consulting for \$1,203.01. Exhibit B. The amended campaign finance report specifies the expenditures to the subcontractors for the mailing. Exhibit C.

9. Respondent reported payment of \$9,339.69 on October 27, 2004 to Fifty Plus One for Consulting and a mailing piece. Complainant alleges that Fifty Plus One is not a printer, mail house or a postage vendor, and therefore Respondent failed to pay the vendor directly. Respondent provided detail from Fifty Plus One that itemizes the expenses to the subvendors.

A to Z Printing provided the printing for \$2,546.04, Marilyn Moss Design provided the graphic design for \$1,600.00, USPS provided postage for \$2,587.20 and Fifty Plus One provided consulting for \$2,606.45. Exhibit B. The amended campaign finance report specifies the expenditures to the subcontractors for the mailing. Exhibit C.

10. Respondent reported payment of \$5,496.75 on November 3, 2004 to Fifty Plus One for persuasion calls. Complainant alleges that Fifty Plus One is not a calling house, and therefore Respondent failed to pay the vendor directly. Respondent provided detail from Fifty Plus One that itemizes the expenses to the subvendors. GSI Voter Contact provided phone banks for \$4,030.95 and Fifty Plus One provided consulting for \$1,465.80. Exhibit B. The amended campaign finance report specifies the expenditures to the subcontractors for the mailing. Exhibit C.

11. Respondent reported payment of \$1,659.44 on November 3, 2004 to Fifty Plus One for palm cards and a mailing piece. Complainant alleges that Fifty Plus One is not a printer, mail house or a postage vendor, and therefore Respondent failed to pay the vendor directly. Respondent provided detail from Fifty Plus One that itemizes the expenses to the subvendors. Kinko's provided printing for \$515.85, Marilyn Moss Design provided graphic design services for \$100.00, A to Z Printing provided the printing for \$843.59 and Fifty Plus One provided consulting for \$200.00. Exhibit B. The amended campaign finance report specifies the expenditures to the subcontractors for the mailing. Exhibit C.

Claimant also questioned if Respondent is reporting expenditures as they incurred, as two payments were made on the same day to Fifty Plus One. The date of the invoice was received on November 3, 2004, which was reported as an expenditure within a timely manner.

As a participating candidate, Respondent was not required to file the trigger reports as expenditures were made prior to the general election. Pursuant to A.R.S §§ 16-941(B) & -958, nonparticipating candidate shall file an original and supplemental reports when expenditures exceed 70 percent and 10 percent, respectively, of the general election spending limit and shall file the reports within one business day of reaching the trigger during the last two weeks of the election. Rather, participating candidates shall comply with the reporting deadlines set forth in A.R.S § 16-913(B)(2), which required all campaign activity that occurred between October 14, 2004 and November 22, 2004, be reported no later than December 1, 2004, in the Post-General Report. Accordingly, Respondent complied with the reporting requirements applicable to participating candidates by reporting the expenditure to Fifty Plus One for services provided just days before the general election in the Post-General Report. The invoices are attached with Exhibit B.

12. Respondent reported payment of \$2,124.75 on November 3, 2004 to Fifty Plus One for GOTV calls. Complainant alleges that Fifty Plus One is not a calling house, and therefore Respondent failed to pay the vendor directly. Respondent provided detail from Fifty Plus One that itemizes the expenses to the subvendors. GSI Voter Contact provided the phone bank for \$1,558.15, and Fifty Plus One provided consulting for \$366.60. Exhibit B. The amended campaign finance report specifies the expenditures to the subcontractors for the mailing. Exhibit C.

Claimant also questioned if Respondent is reporting expenditures as they incurred, as two payments were made on the same day to Fifty Plus One. The date of the invoice was received on November 3, 2004, which was reported as an expenditure within a timely manner, as previously explained.

13. Respondent reported payment of \$1,018.05 on November 3, 2004 to Fifty Plus One for email file and blast. Complainant alleges that Fifty Plus One is not an email vendor, and therefore Respondent failed to pay the vendor directly. Respondent provided detail from Fifty Plus One that itemizes the expenses to the subvendors. Advocacy Inc. provided the email services for \$999.00, and Fifty Plus One provided consulting for \$19.05. Exhibit B. The amended campaign finance report specifies the expenditures to the subcontractors for the mailing. Exhibit C.

Claimant also questioned if Respondent is reporting expenditures as they incurred, as two payments were made on the same day to Fifty Plus One. The date of the invoice was received on November 3, 2004, which was reported as an expenditure within a timely manner, as previously explained.

14. Respondent reported payment of \$268.50 on November 3, 2004 to Fifty Plus One for GOTV calls and ID's. Complainant alleges that Fifty Plus One is not a calling house, and therefore Respondent failed to pay the vendor directly. Respondent provided detail from Fifty Plus One that itemizes the expenses to the subvendors. GSI Voter Contact provided a phone bank for \$196.90, and Fifty Plus One provided consulting for \$90.65. Exhibit B. The amended campaign finance report specifies the expenditures to the subcontractors for the mailing. Exhibit C.

Claimant also questioned if Respondent is reporting expenditures as they incurred, as two payments were made on the same day to Fifty Plus One. The date of the invoice was received on November 3, 2004, which was reported as an expenditure within a timely manner, as previously explained.

III. No Reason to Believe Finding

Based on the complaint, Respondent's response, invoices and Respondent's campaign finance report, the Executive Director recommends the Commission finds no reason to believe violations of the Act or Commission rules occurred. Pursuant to A.A.C. R2-20-206, the Commission shall dismiss the complaint upon finding no reason to believe the alleged violations occurred.

Dated this ____ day of July, 2005

By: _____
L. Gene Lemon
External Investigative Consultant